

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TYRONE PEELE,

Petitioner

v.

SGT. RAPP, et al.,

Respondents

No. 3:13cv1854

(Judge Munley)

(Magistrate Judge Schwab)

ORDER

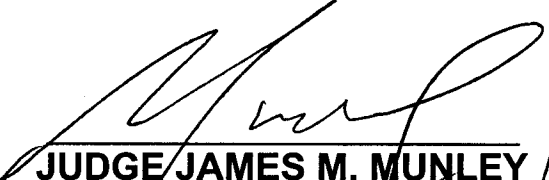
AND NOW, to wit, this 19th day of September 2013, we have before us for disposition Magistrate Judge Susan E. Schwab's report and recommendation, which proposes the dismissal of petitioner's habeas corpus petition without prejudice to the petitioner filing a civil rights action. No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the

record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

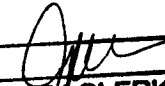
- 1) The magistrate judge's report and recommendation (Doc. 7) is **ADOPTED**;
- 2) The petitioner's habeas corpus petition (Doc. 1) is **DISMISSED** without prejudice to the petitioner filing a civil rights action; and
- 3) The Clerk of Court is directed to close this case.

BY THE COURT:


JUDGE JAMES M. MUNLEY
United States District Court

FILED
SCRANTON

SEP 19 2013


PER _____
DEPUTY CLERK